

NOT FOR CITATION

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

GRADY ARNOLD,) No. C 01-20810 JF (PR)
Petitioner,) ORDER TO SHOW CAUSE
vs.)
D.L. RUNNELS, Warden)
Respondent.)

Petitioner, proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging his Alameda County Superior Court conviction for attempted robbery while armed with a firearm (Cal. Penal Code §§ 211, 664, 12022(a)(1)), possession of a firearm by a convicted felon (Cal. Penal Code § 12021(a)(1)) and shooting at an occupied building (Cal. Penal Code § 246). Petitioner was sentenced to forty-one years-to-life in state prison.

On November 4, 2003, the Court denied the instant petition and entered judgment for Respondent. Petitioner appealed this Court's denial of the petition. The Court denied Petitioner's request for a certificate of appealability. The Ninth Circuit Court of Appeals

1 granted a certificate of appealability and reviewed this Court's denial of the petition.
2 The Ninth Circuit reversed and remanded. See Arnold v. Runnels, 421 F.3d 859, 869-870
3 (9th Cir. 2005). On remand, the Ninth Circuit ordered the Court to issue a conditional
4 writ of habeas corpus and require that the State of California release Petitioner from
5 custody in this case, unless it grants Petitioner a new trial within a reasonable period of
6 time as determined by this Court. Id. On March 2, 2006, this Court issued an order
7 conditionally granting the petition. The Court ordered that Petitioner must be released
8 and his conviction vacated unless the State of California retries Petitioner within one-
9 hundred and twenty (120) days. A copy of the Court's order was sent to the parties of
10 record and sent by certified mail to the Alameda Superior Court.

11 As of the date of this order, neither party has advised the Court of the status of the
12 trial proceedings against Petitioner, if any. Accordingly, the Court orders Respondent to
13 show cause as to why this Court should not issue an unconditional order releasing
14 Petitioner. Respondent shall file a response and notify the Court of the current status of
15 Petitioner's underlying state court criminal proceedings within seven days of the date of
16 this order.

17 IT IS SO ORDERED.

18 DATED: ____7/13/06_____

/s/

19 JEREMY FOGEL
United States District Judge

1 This is to certify that on _____, a copy of this ruling was
2 mailed to the following:

3 Grady Arnold
4 C-11965
5 Pelican Bay State Prison
P.O. Box 7500
Crescent City, CA 95532-7500

6
7 Amitai Schwartz, Esq.
2000 Powell Street, Suite 1286
8 Emeryville, CA 94608

9
10 George F. Hindall, III
CA State Attorney General's Office
11 455 Golden Gate Ave
Suite 11000
12 San Francisco, CA 94102-7004